

How the Independents Have Voted in the House

December 2012

The final House of Representatives sitting week for 2012 ran from Monday 26 November until Thursday 29 November. During this week 11 bills were passed, bringing the total number of bills passed by the House in the 43rd Parliament to 449.

The Government has maintained a successful record of gaining support from the Independents on significant pieces of legislation requiring a division. Over the length of the 43rd Parliament to date, the Government has won the majority in 95 per cent of divisions on substantive matters, and in 81 per cent of all divisions. The Government is yet to be defeated on a final vote in support of a bill.

The House of Representatives will resume sitting on Tuesday 5 February 2013.

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Part I: Significant Legislation Introduced or Passed by the House in the Spring Session

➤ [Migration Amendment \(Unauthorised Maritime Arrivals and Other Measurers\) Bill 2012](#)

This bill amends the *Migration Act 1958* to implement a recommendation of the Expert Panel on Asylum Seekers. The bill provides that asylum seekers who unlawfully arrive anywhere in Australia are subject to the same regional processing arrangements as asylum seekers who arrive at an excised offshore place. The bill completed its passage through the House of Representatives on Tuesday 27 November 2012, and is awaiting introduction into the Senate.

➤ [Water Amendment \(Water for the Environment Special Account\) Bill 2012](#)

This bill amends the *Water Act 2007* to enable the Sustainable Diversion Limit (SDL) Adjustment Mechanism, as part of the Murray Darling Basin Plan. The Bill establishes the Water for the Environment Special Account for a 10-year period from the 2014-15 financial year to acquire additional environmental water entitlement and to remove constraints on the efficient use of environmental water for the Murray-Darling Basin Plan.

➤ [National Gambling Reform Bill 2012](#)

This bill is part of a package of three bills establishing a national scheme for gaming machine reform. This reform includes provision for precommitment technology, allows registered users to set a loss limit, requires gaming machines to display certain warnings, and places limits on daily withdrawals from automatic teller machines located in gaming premises (excluding casinos) to \$250. The bill also establishes a Regulator to monitor and investigate compliance, provides for enforcement measures, establishes an Australian Gambling Research Centre within the Australian Institute of Family Studies and provides for the Productivity Commission to undertake two inquiries.

The bill was introduced and read a first time on 1 November 2012. It completed its passage through both House on Thursday 29 November 2012.

- [Clean Energy \(Charges—Customs\) Amendment Bill 2012; Clean Energy \(Unit Issue Charge—Auctions\) Amendment Bill 2012; and Clean Energy Amendment \(International Emissions Trading and Other Measures\) Bill 2012](#)

These bills are part of a package of seven bills which amend the *Clean Energy Act 2011* and the associated Acts to enable the link between the Australian and European Emissions Trading Schemes. The Bills were introduced by Minister Combet on Wednesday 19 September 2012 and completed their progress through both houses on Monday 26 November 2012.

- [Wheat Export Marketing Amendment Bill 2012](#)

This Bill implements the recommendations of the Productivity Commission's report into wheat export marketing arrangements by amending the Wheat Export Marketing Act 2008 to deregulate the wheat export industry, including abolishing the Wheat Export Accreditation Scheme and the wheat export charge on 30 September 2012; winding up Wheat Export Australia on 31 December 2012; and removing the access test requirements for grain port terminal operators on 30 September 2014.

The bill completed its passage through both house on Thursday 29 November 2012, and received Royal Assent on 3 December 2012.

Part II: Current Composition of the House of Representatives

There are 150 members of the House of Representatives. The Australian Labor Party holds 71 seats, the Coalition holds 71 seats, and eight seats are held by Independents and members of minor parties. They are:

- Mr. Adam Bandt (The Australian Greens Member for Melbourne)
- Mr. Tony Crook (The West Australian Nationals Member for O'Connor)
- Mr. Bob Katter (Katter's Australia Party Member for Kennedy)
- Mr. Rob Oakeshott (Independent Member for Lyne)
- The Hon. Peter Slipper (Independent for Fisher)
- Mr. Craig Thomson (Independent Member for Dobell)
- Mr. Andrew Wilkie (Independent Member for Denison)
- Mr. Tony Windsor (Independent Member for New England)

Adam Bandt, Rob Oakeshott and Tony Windsor have each guaranteed supply and confidence in the Government. Craig Thomson is a former member of the Labor Party and has indicated he will similarly support the Government.

A motion of no confidence requires a simple majority to succeed. If a motion of no confidence were moved, the Government could rely on seventy votes from its own members (not including the Speaker), plus the votes of Adam Bandt, Rob Oakeshott, Tony Windsor and Craig Thomson. The Coalition could rely on seventy one votes from its own members.

The Coalition would need the support of all four remaining Independents, (Tony Crook, Bob Katter, Peter Slipper and Andrew Wilkie) for a Motion of No Confidence to succeed. However, it is

likely that the Opposition would need to suspend Standing and Sessional Orders to move such a motion, which requires an absolute majority, or 76.

Mr. Tony Crook MP (WA National)

On Saturday 5 May 2012, West Australian Nationals Member for O'Connor Tony Crook announced that he would be joining the federal Nationals parliamentary party room from Tuesday 8 May 2012. Mr. Crook had previously sat on the crossbenches in order to advocate for the specific needs of West Australia. His election campaign platform centred on the fact that the West Australian Nationals were an independent party. In announcing his decision, Mr. Crook noted that he had been unable to successfully leverage his vote as a crossbencher. While sitting on the crossbenches, Mr. Crook voted against the Government in 87 per cent of divisions.

The Hon. Peter Slipper MP

At the 2010 Federal Election, the Hon. Peter Slipper MP was elected to the seat of Fisher as a member of the Liberal National Party. On 24 November 2011, Mr. Slipper became an Independent following his resignation from the Liberal National Party. On the same day he was elected as the Speaker of the House of Representatives following the resignation of Labor MP the Hon. Harry Jenkins from this position.

On Tuesday 9 October 2012, Mr. Slipper resigned as Speaker. He had earlier stood aside from the position of Speaker on 22 April 2012 following allegations of a civil matter being made against him. Mr. Slipper will continue to serve as the Independent Member for Fisher, and will be entitled to vote in all divisions. He has denied the civil allegations.

Following his resignation as Speaker, Mr. Slipper voted as an Independent in the House for the first time.

Mr. Craig Thomson MP

On Sunday 29 April, Prime Minister Julia Gillard announced that she had indicated to the Member for Dobell, Mr. Craig Thomson MP that it was no longer appropriate for him to participate in Labor caucus, and he should be suspended from the Labor Party. This announcement follows allegations of misuse of a union credit card while Mr. Thompson was National Secretary of the Health Services Union (HSU). Mr. Thompson has denied the allegations.

Mr. Thomson subsequently indicated that he had for his own reasons reached the same conclusion as the Prime Minister, and had announced to the ALP that he would join the crossbench as an independent, although he has also indicated that he will continue to support the Labor Government.

In making this announcement, Prime Minister Gillard reaffirmed that Mr. Thomson was also entitled to a presumption of innocence. She further stated that the actions she had taken were not pre-judging these allegations, but were a measure to restore respect in the Parliament amid concerns felt by the Australian public about standards in public life.

Mr. Andrew Wilkie MP

On 21 January 2012, the Independent Member for Denison, Andrew Wilkie, announced that he would no longer guarantee supply and confidence in the Government. Mr. Wilkie's announcement came in response to Prime Minister Julia Gillard's announcement on Tackling Problem Gambling. Mr.

Wilkie's statement is available [here](#). The Prime Minister's announcement on Tackling Problem Gambling is available [here](#).

Mr. Wilkie had previously guaranteed by written agreement supply and confidence in the Government. The agreement is available [here](#).

Mr. Adam Bandt MP

Mr. Bandt has guaranteed supply and confidence in the Government through a written agreement between his party, the Australian Greens, and the Australian Labor Party. The agreement is available [here](#).

Independent MPs Oakeshott and Windsor

The Independent Member for Lyne, Mr. Rob Oakeshott MP and the Independent Member for New England, Mr. Tony Windsor MP, have together guaranteed supply and confidence in the Government through a written agreement with the Australian Labor Party. The agreement is available [here](#).

Mr. Bob Katter MP

Independent member for Kennedy Mr. Bob Katter MP has no formal agreement with either the Government or the Opposition. Following the 2010 Federal Election, he formed a new political party, Katter's Australia Party.

Part III: The Legislative Agenda of the 43rd Parliament of Australia

The Independents' voting record is a reflection of the Government's dominance over the legislative agenda of this Parliament. In the agreements between the Prime Minister and Independents that led to the forming of Government, the Prime Minister agreed to implement any legislation passed by the Parliament, whether or not it had been introduced by the Government, or received the Government's support in the House, allowing the Opposition to pursue its own legislative agenda in this hung Parliament. Although the Opposition has introduced some legislation during the 43rd Parliament so far, it has generally not been voted on, and the support of the Independents has therefore overwhelmingly been a response to the Government's legislative agenda.

The *Environment Protection and Biodiversity Conservation (Public Health and Safety) Amendment Bill 2010* second reading remains the only division on an amendment to a bill that has been lost by the Government. In February 2011 Adam Bandt, Rob Oakeshott and Andrew Wilkie voted with the Government, while Tony Crook, Bob Katter and Tony Windsor voted against. The amended Bill subsequently passed the Parliament.

Votes by Speaker, Ms. Anna Burke MP

Ms. Anna Burke was elected as Speaker on Tuesday 9 October 2012. On Thursday 1 November, Ms. Burke used her casting vote as Speaker for the first time, on the matter of the *Fair Work Amendment (Transfer of Business) Bill 2012* second reading debate. Ms. Burke voted with the Government and resolved the matter in the affirmative to allow further debate to continue on the bill.

Prior to her election as Speaker, Ms. Bourke was the Deputy Speaker acting as Speaker from Tuesday 8 May. While acting as Speaker, Ms. Burke has used her casting vote seven times. On Thursday 24 May 2012, on the matter of the Opposition amendments to the *Paid Parental Leave and Other*

Legislation Amendment (Dad and Partner Pay and other Measurers) Bill 2012, Ms. Burke voted with the Government to resolve the matter in the negative. In doing so, she referenced the principle that a casting vote on an amendment should leave a bill in its existing form.

On Thursday 31 May 2012, on the matter of the Independent Member for Lyne Rob Oakeshott's motion *Migration Legislation Amendment (The Bali Process) Bill 2012 – Second Reading*, Ms. Burke voted with the Government to resolve the matter in the affirmative. In doing so, she referenced the principle that the casting vote should allow further consideration.

On Wednesday 20 June 2012, on the matter of the Government motion to close debate on the *Passenger Movement Charge Amendment Bill 2012*, Ms. Burke voted with the Opposition to resolve the matter in the negative, referencing the principle that the casting vote should allow further consideration on a matter.

On Thursday 21 June 2012, on the matter of the Opposition's amendments to the *Social Security Amendment (Supporting Australian Victims of Terrorism Overseas) Bill 2011*, Ms. Burke voted with the Government to resolve the matter in the negative, leaving the bill in its existing form.

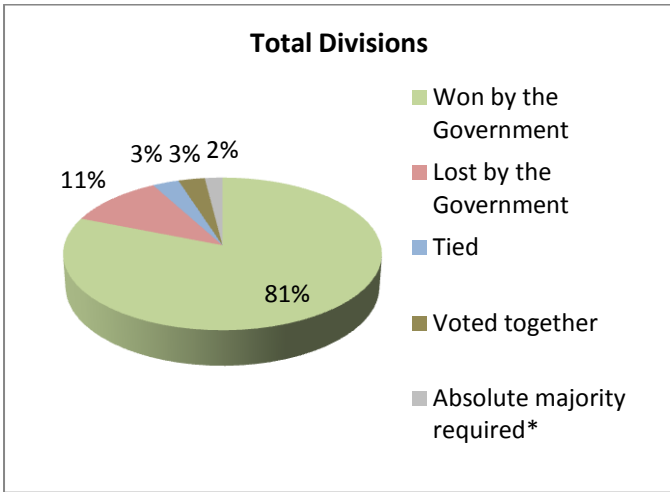
On Thursday 16 August 2012, Ms. Burke used her casting vote twice, the first time on an Opposition motion regarding the Accountability and Transparency of Unions, and the second time on an Opposition motion regarding the Small-Scale Renewable Energy Scheme. In both cases she voted with the Noes, based on the principle that decisions should not be taken except by a majority.

On Monday 17 September 2012, Ms. Burke used her casting vote to vote with the Noes on the matter of the Opposition motion for disallowance of the Road User Charge Determination (No. 1) 2012, stating that she did so in accordance with precedents for retaining a proposition in its original state.

Votes by the former Speaker, the Hon. Peter Slipper MP

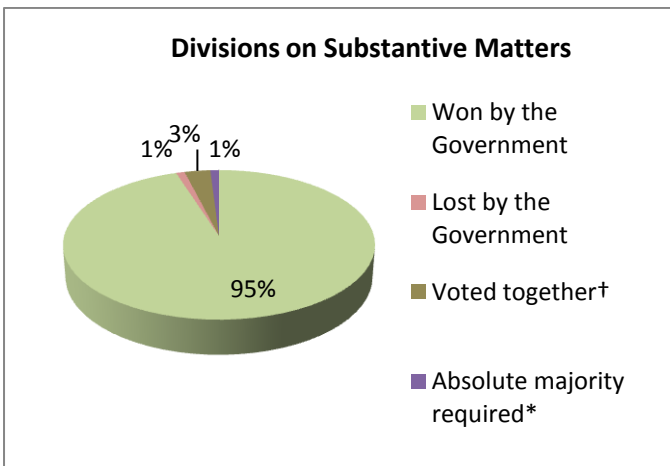
On 19 March 2012, Independent Peter Slipper used his casting vote for the first time since he assumed the position of Speaker on 24 November 2011. On the matter of the Independent Member for Lyne Rob Oakeshott's motion for disallowance of the Renewable Energy (Electricity) Amendment Regulations 2011 (No. 5), as contained in the Select Legislative Instrument 2011 No. 222, and made under the *Renewable Energy (Electricity) Act 2000*, Mr. Slipper used his casting vote to vote with the Government and resolve the matter in the negative. In doing so, Mr. Slipper referenced two principles: that decisions should not be taken except by a majority; and that legislation should be left in its original form.

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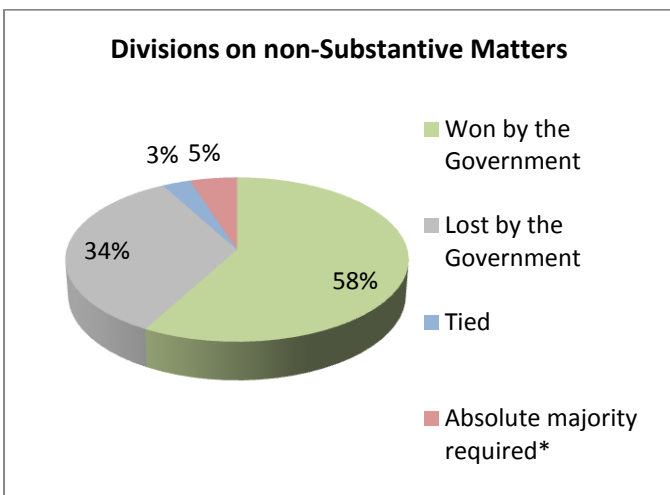
Total Number of Divisions

Won by the Government	81%	346
Lost by the Government	11%	45
Tied	3%	14
Voted together	3%	11
Absolute majority required*	2%	9
	100%	425



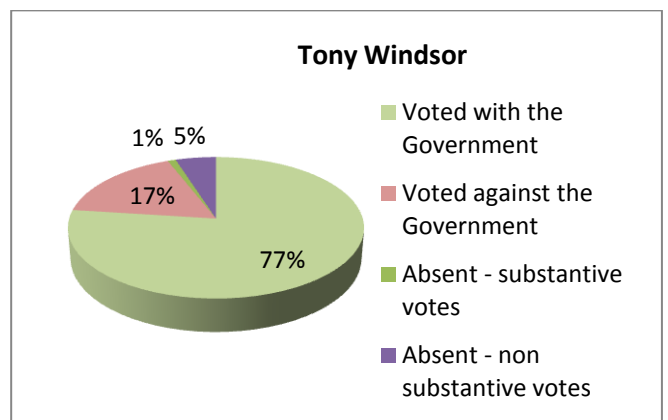
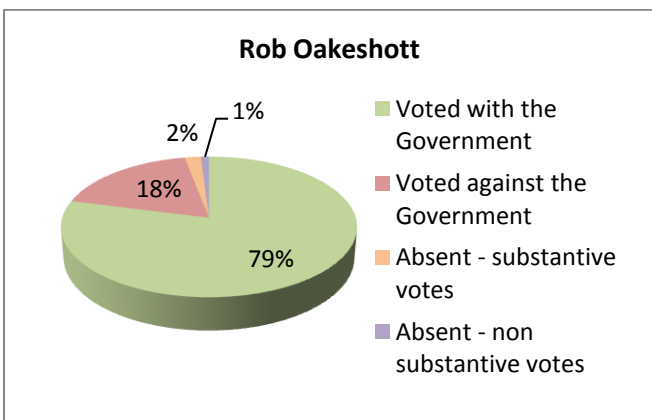
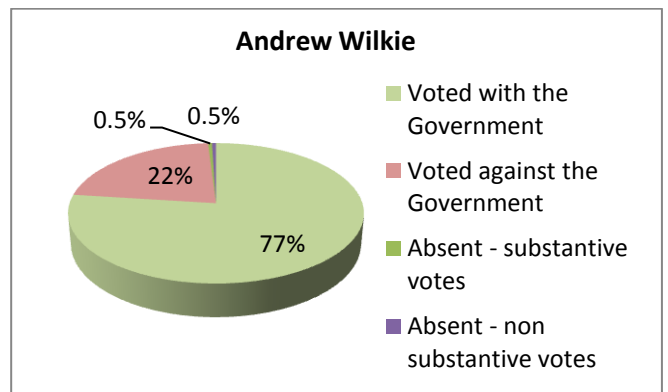
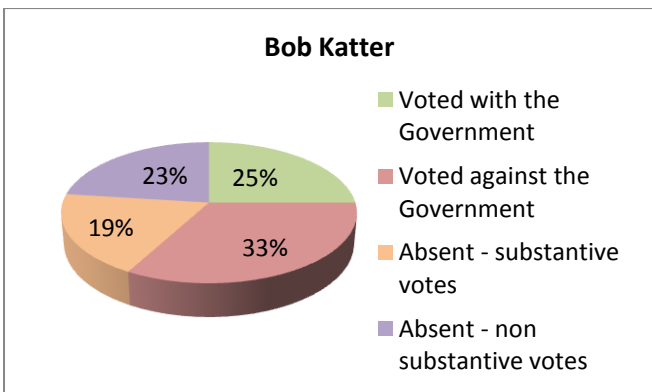
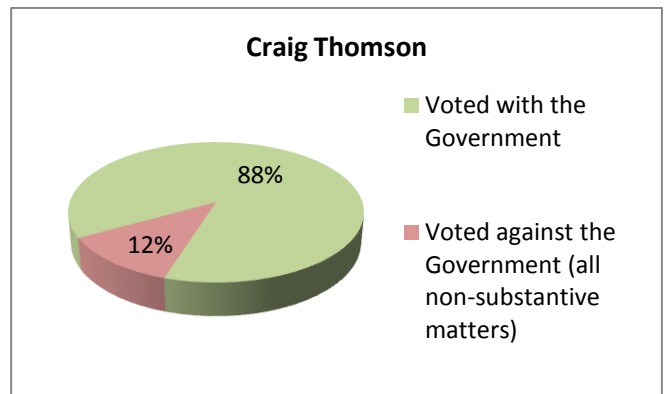
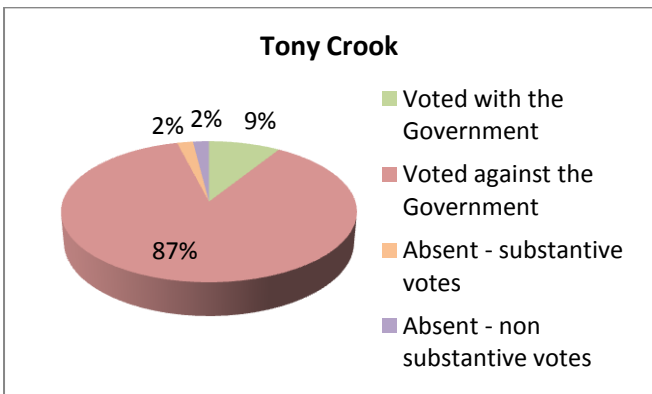
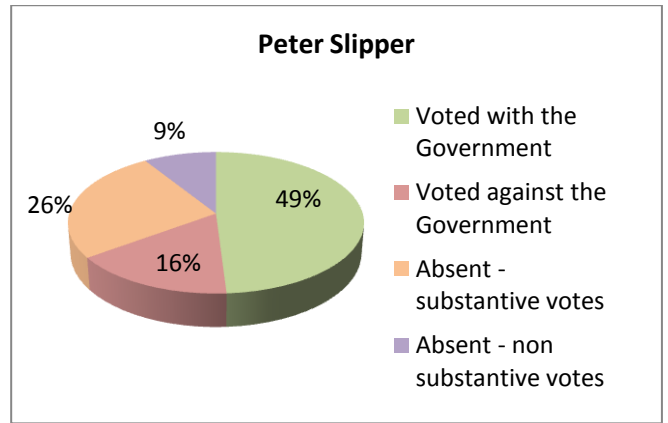
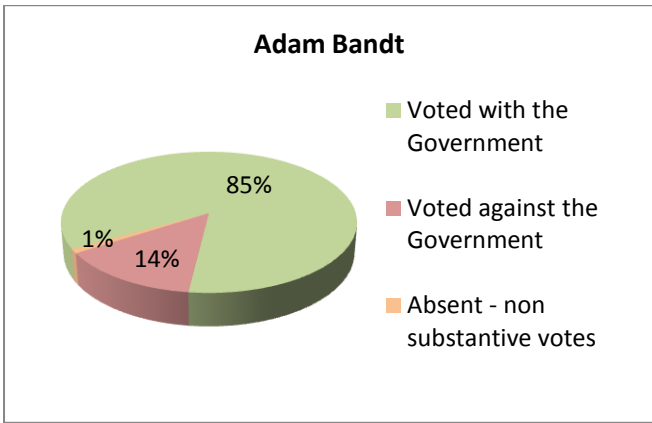
Number of Substantive Divisions†

Won by the Government	95%	277
Lost by the Government	1%	2
Voted together†	3%	11
Absolute majority required*	1%	3
	100%	293



Number of Non-Substantive Divisions

Won by the Government	58%	76
Lost by the Government	34%	45
Tied	3%	4
Absolute majority required*	5%	7
	100%	132



* Non-substantive motions defeated on the basis that an absolute majority of all those eligible (rather than present) to vote was not reached.
 † On the occasions where the Government and Opposition voted together against the independents.
 ‡ Votes of a largely procedural nature (not encompassing amendments to substantive legislation). Does not include motions to censure the Prime Minister.